(1982) 06 MAD CK 0015

In the Madras High Court

Case No : T.C.P. No. 471 of 1982 (Revision No. 136 of 1982)

The State of Tamil Nadu APPELLANT

Vs

Kannika Cycle Stores RESPONDENT

Date of Decision : 24-06-1982

Acts Referred:

Citation : (1983) 53 STC 429

Hon'ble Judges : N.V. Balasubramanian, J;G. Ramanujam, J

Bench : Division Bench

Advocate : K.S. Bakthavatsalam, Additional Government Pleader, for the Appellant;

Judgement

Ramanujam, J.—This revision is directed against the order of the Tribunal holding that the mirror, which is normally used as an accessory to

cycles, will fall under entry 38 of the First Schedule and not under entry 102 of that schedule.

2. The assessee in this case is a dealer in cycles, and the taxable turnover reported by him for the assessment year 1979-80 was Rs. 1,50,691. In

the course of the assessment, the assessing officer determined the turnover of sales of mirrors fitted to cycles and brought them to sales tax at 10

per cent while the assessee''s claim was that it should be taxed at 6 per cent. The matter was taken in appeal by the assessee to the Appellate

Assistant Commissioner who also justified the assessment of the turnover in cycle mirrors under entry 102 of the First Schedule at 10 per cent. The

matter was taken further in appeal before the Sales Tax Appellate Tribunal and the Tribunal has taken the view that the assessee has sold the

mirror as an accessory to the cycle or as its spare part, and therefore, it should be brought under the entry ""accessory to cycle"" and not under the entry ""glass and glassware"" including sheet glass and plate glass, mirror, laboratory glassware, etc. Admittedly, the assessee is not a dealer in

glassware and he is only a dealer in cycles. For persons who require a mirror to be fitted into cycles, the mirror is given as a spare part for the

cycle or as an accessory. Therefore, as has already been held by this Court in Yacub Hussain v. State of Tamil Nadu [1980] 46 STC 470 the

purpose for which the commodity is used is often a guiding factor to determine its character. In this case, the purpose for which the mirror is sold is

to use it as a rear view mirror and not for the purpose of reflection. In this view of the matter, we are inclined to agree with the view taken by the

Tribunal in this case. The tax case is, therefore, dismissed.

